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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 MARCUS R. WILLIAMS,

CASE NO. 1:02-CV-5094-REC-SMS-P

10 Plaintiff,

ORDER DENYING MOTION TO DEPOSE
INMATE BENNETT, WITHOUT PREJUDICE

11 v.

(Doc. 75)

12 M. YARBOROUGH, et al.,

13 Defendants.
14 _____/

15 Plaintiff Marcus R. Williams ("plaintiff") is a state prisoner proceeding pro se and in forma
16 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 26, 2005, plaintiff filed
17 a motion seeking leave of court to depose inmate Frederick Bennett by written questions.
18 Defendants did not file a response to the motion.

19 If plaintiff wishes to depose inmate Bennett by written questions, plaintiff is cautioned that
20 he must comply with Rule 31 of the Federal Rule of Civil Procedure. Depositions by written
21 questions entail more than simply mailing questions to the deponents and awaiting their written
22 responses. The court will direct the Clerk's Office to send plaintiff a copy of Rule 31. If, after
23 reviewing the rule, plaintiff believes he is able to depose inmate Bennett in compliance with the rule,
24 plaintiff shall notify the court and make a showing that he is able and willing to retain an officer to
25 take responses and prepare the record. Fed. R. Civ. P. 31(b). At juncture, the court will reconsider
26 plaintiff's request for leave to depose inmate Bennett and will determine what course of action is
27 needed to facilitate the deposition.

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Based on the foregoing:

1. Plaintiff's motion for leave of court to depose inmate Bennett, filed April 26, 2005, is DENIED, without prejudice; and
2. The Clerk's Office shall send plaintiff a copy of Rule 31.

IT IS SO ORDERED.

Dated: June 15, 2005

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/s/ Sandra M. Snyder

UNITED STATES MAGISTRATE JUDGE